

VZCZCXRO6541
RR RUEHDBU
DE RUEHYE #0783/01 1661247
ZNY CCCCC ZZH
R 151247Z JUN 07
FM AMEMBASSY YEREVAN
TO RUEHC/SECSTATE WASHDC 5791
INFO RUCNCIS/CIS COLLECTIVE
RUEHNO/USMISSION USNATO 0379
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHDC 0075
RUEAWJA/DEPT OF JUSTICE WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 YEREVAN 000783

SIPDIS

SIPDIS

DEPT FOR EUR/CARC
DOJ FOR OPDAT/LEHMANN, NEWCOMBE AND ALEXANDRE

E.O. 12958: DECL: 06/14/2017

TAGS: [PGOV](#) [PHUM](#) [PREL](#) [ASEC](#) [KJUS](#) [KCRM](#) [KDEM](#) [KTIP](#) [HSTC](#)
AM

SUBJECT: CRIMINAL JUSTICE REFORM RESTRUCTURES INVESTIGATIVE
FUNCTIONS IN ARMENIA

YEREVAN 00000783 001.2 OF 003

Classified By: CDA A.F. Godfrey, reasons 1.4 (b,d)

11. (C) SUMMARY: Armenian law enforcement is grappling with a major restructuring that strips the powerful Prosecutor General's or "Procuracy" organization of all its investigative functions and staff, transferring the investigators themselves into police agencies. The reform is an excellent one in theory, creating a more Western-style separation of roles and authorities between police and prosecutors, and will set Armenian criminal justice on a sounder footing for the long term. There may be significant short-term disruption, however, as agencies adjust to the restructuring. Prosecutors and the PG investigators are roundly demoralized, at the moment, over this blow to their previous hegemony over criminal investigations. Police may be happy to have won new resources, but seem so far poorly-prepared to assimilate this major influx of staff and responsibility. END SUMMARY

MOVING TOWARD A MORE WESTERN MODEL

12. (U) Armenia's new Law on the Procuracy came formally into effect May 1, 2007, with many of the provisions in the Law taking effect at later dates. The most significant change will be the transfer of all investigative authority from the prosecutors' offices, both main and local, to various police agencies: the Investigative Department of the Police, the State Tax Service, the State Customs Service, and the Defense Ministry's Military Police. On December 1, 2007, these law enforcement bodies will begin investigating cases under this new authority. This Law on the Procuracy is part of broader reforms which will be completed with the adoption of the new Criminal Procedure Code (CPC) scheduled by January 1, 2008. This shift in authority was designed to ensure more appropriate separation of powers between the body that carries out investigations and the one that oversees the investigative process, ideally to create a more transparent and fair operation of law-enforcement.

13. (SBU) As a result of the reform, the Procuracy (the prosecutors' organization, virtually a ministry in its own right) will lose about 60 percent of its staff -- with investigators moving to different agencies, being converted into prosecutors, or leaving the system altogether. The prosecutors that remain will oversee investigations and litigate cases in court. While some local observers consider

the changes positive, most expect serious challenges in implementation, due to an untrained national police agency lacking capacity, and to overburdened prosecutors. The new reform law only sets forth the general scope of authority for the prosecutors. The details of this authority will be set forth in the new CPC. Therefore, the detailed nature of the reforms is still an open question.

REINING IN THE PROCURACY

14. (C) Under the Soviet model, the Procuracy (an independent agency, headed by the Prosecutor General and comprising prosecuting attorneys and criminal investigators) was the dominant institution of the criminal justice system, more influential than even the judges. To work in the Procuracy, either as a prosecutor or as a criminal investigator, was widely considered about the most prestigious job that a young lawyer could get. After Armenia's independence, and under Western pressure and assistance, the Procuracy gradually ceded significant power and prestige to the judiciary, but retained its dominant role with regard to criminal investigations. In practice, however, cooperation between police and the Procuracy has generally been abysmal, with sharp inter-agency jealousies.

15. (C) The new law's major curtailing of prosecutorial authorities was a political victory of the former Minister of Justice Davit Harutyunyan (now chairman of the State and Legal Affairs Committee of the parliament) over his long-time policy adversary Prosecutor General Aghvan Hovsepyan. Nonetheless, publicly Hovsepyan has spoken of his devotion to the reforms process and the importance of moving closer to the European models.

16. (C) Gevorg Danielyan -- then the Deputy Prosecutor

YEREVAN 00000783 002.2 OF 003

General, now the newly-appointed Justice Minister -- told us glumly May 29 that as a result of these reforms the Prosecutor's Office will lose about 60 percent of its personnel (down to 250 from about 660), mostly from the complete transfer of investigators out of the PG's organization. Danielyan's colleagues, lower-level prosecutors from Yerevan and the regions, were equally downbeat about the reform's effects, during the May 29 lunch at the CDA's residence.

17. (SBU) Final numbers signalling which officers will be transferred where have not yet been fully worked out. Most of the investigators are likely to move to the National Police. Fifty-five investigators from the Military Procuracy will move to the Military Police under the Defense Ministry. Other investigators will go to the Tax or Customs Authorities. A few may be converted from investigators into prosecutors. (NOTE: PG investigators have typically always had law degrees as well. END NOTE)

18. (C) Some of the prosecutors whose positions are to be cut may choose private practice as advocates (defense attorneys), taking advantage of new licenses obtained recently in the last advocate bar exam. However, voluntary attrition will not be enough. The Prosecutor General will still need to lay off a significant number of employees who will not be transferred to other agencies. The PG spokesperson Sona Truzyan explained that a number of retirement-eligible investigators preferred do that rather than accept transfer, in order to receive a one-time retirement bonus of over USD 10,000, in addition to their monthly pensions. This one-time bonus payment upon retirement is a unique feature of the Procuracy retirement plan that other agencies do not enjoy, and one that will be lost by all staff transferring out of the Procuracy to eventually retire out of other agencies.

19. (C) Grisha Mikayelyan, the chief prosecutor for Kotayk

Marz, told us that there is a significant cohort of investigators (from the high 50s to early 60s in age) who are too young to qualify for the prosecutorial retirement package, but above the mandatory police retirement age of 55, and are therefore ineligible for transfer. Presumably most of these investigators will be simply laid off without a retirement pension, but this is not entirely clear yet.

REFORMS - STILL A WORK IN PROGRESS

¶10. (C) According to Truzyan, at this point the reforms process is still at an initial stage, since many legal and procedural gaps remain. The Criminal Procedural Code (CPC), which regulates many of these issues, must be amended in light of the new Law on the Procuracy's requirements, but these CPC changes are still being drafted. Truzyan told us that to make the transition easier the Procuracy may finish the investigations of its pending cases, but the police will handle all the new cases. This seems to contradict the text of the new law. Moreover, Kotayk chief prosecutor Mikayelyan stated that investigators who are converted into prosecutors will continue to investigate not only pending cases, but also newly initiated cases until December 1, 2007.

¶11. (C) In another reform measure, the Prosecutor General has approved a Code of Conduct for Prosecutors, a Qualifying Committee, and a Commission on Ethics (comprised of 7 members, 4 of whom are non-prosecutors appointed by the President) which will monitor prosecutorial conduct.

NOT ONLY PROSECUTORS ARE UNHAPPY

¶12. (C) Losing a significant swath of its powers and staff, the Prosecutor General's organization is unsurprisingly unhappy from top to bottom. Many prosecutorial investigators are reportedly reluctant to transfer into the national police agency. We hear that any who can manage it are pulling strings to win one of the much scarcer positions in the military police, tax, or customs agencies, rather than transfer into the national police. These investigators are reportedly not eager to join the ranks of the very police whom they had until recently overseen (perhaps even pushed around) from their position as PG investigators -- previously deemed far the more prestigious and powerful organization.

YEREVAN 00000783 003.2 OF 003

¶13. (C) Independent analysts are concerned about the risk of chaos in the law-enforcement community arising from these organizational changes. Up until now, the bulk of the serious criminal investigation work was done by the criminal investigators working in the various regional prosecutors' offices or in the office of the Prosecutor General in Yerevan. The police typically have only investigated petty crimes or conducted limited initial investigations of more serious cases before transferring the case file to prosecutors' jurisdiction.

¶14. (C) The director of the Advocates Union, Ruben Sahakian, told us that he is deeply concerned about the new Law because he thinks the level of professionalism in investigations will suffer tremendously. He referred to police as "butchers," unsophisticated investigators whose crude methods rely excessively on intimidation. Another widespread concern among observers is that the prosecutors will be overburdened without the help of their investigative staff, and which could lead to cursory oversight over the criminal caseload.

¶15. (C) A further concern is whether and how long it will take before working level prosecutors and police develop the kind of cooperative, day-to-day relationship on case management that the new structure will require. Under the

previous model, police and prosecutors/investigators only rarely interacted at the working level; such interaction as existed -- beyond rote file transfers -- was conducted at senior levels of the two organizations. The new model will require police investigators and prosecutors to closely and informally cooperate without continual recourse to superiors and other formalistic bureaucratic procedures that define the Armenian law enforcement relationships.

COMMENT

¶16. (C) This will be a tough transition for Armenian authorities, but one which is needed and will help Armenia in the long run. This is an important step in breaking down the vestiges of top-down, authoritarian justice that the centralized and all-powerful Procuracy long represented. Armenian authorities were driven by former Justice Minister Harutyunian to take this difficult step toward a more democratic, Western-style model as a leap of faith. It will be hard in the short term, but will pay important dividends in the long run, as formal checks and balances in the criminal justice system will better protect civil liberties and human rights, and will over time reduce abuse of the justice system by political masters.

GODFREY
GODFREY